



U.S. ENVIRONMENTAL PROTECTION AGENCY
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EPA Announces Historic Approval of Florida's Request to Administer the Clean Water Act Section 404 Program

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WASHINGTON (December 17, 2020) – Today, the U.S. Environmental Protection Agency (EPA) announced the decision to approve Florida's request to administer their Clean Water Act (CWA) Section 404 program at a press conference with Florida Department of Environmental Protection (FDEP) Secretary Noah Valenstein, U.S. Department of the Interior Secretary David Bernhardt, White House Council on Environmental Quality Chair Mary Neumayr, U.S. Congressmen Mario Diaz-Balart (FL-25), Gus Bilirakis (FL-12), Dan Webster (FL-11), John Rutherford (FL-04), Michael Waltz (FL-06), and Greg Steube (FL-17), EPA Assistant Administrator for Water Dave Ross, Principal Deputy Assistant Secretary of the Army for Civil Works Ryan Fisher, and EPA Regional Administrator Mary Walker. This historic decision represents an intensive effort requiring coordination with four other federal agencies, three state agencies, and eight tribal governments. In the 43 years since the CWA was amended to provide for state or tribal assumption, only two states, prior to today's decision, have assumed administration of the CWA Section 404 program (Michigan and New Jersey). Florida is the first state to receive approval to administer a CWA 404 program in over 25 years.

"A considerable amount of effort has gone into Florida's assumption of the Clean Water Act 404 program," **said EPA Administrator Andrew Wheeler.** "Federal authorities don't delegate this type of permit often, but Florida has, beyond question one of the greatest environmental records of any state, and I couldn't be happier that Florida has shown it can meet the strict national standards EPA sets to protect human health and the environment."

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On August 5, 2020, EPA Region 4 Administrator Mary S. Walker and Noah Valenstein, Secretary of the Florida Department of Environmental Protection (FDEP), signed a Memorandum of Agreement (MOA) as part of the assumption process. On August 20, 2020, Governor Ron DeSantis submitted a request for EPA to conduct a review and approve Florida's program to assume administration of the CWA 404 program. Florida's submission, which EPA determined to be complete, included the MOA and other required elements which EPA considered in determining that Florida's program met the standards established under Section 404 of the CWA and implementing regulations.

HOLD for FDEP or Governor DeSantis Quote

Additional quotes from event speakers

As part of the review process, EPA solicited public review and comment on Florida's proposal to administer a Section 404 program as well as soliciting public comment and consulting under Section

106 of the National Historic Preservation Act (NHPA). The EPA also held virtual public hearings, during which EPA accepted comments regarding Florida's request and regarding potential effects on historic properties pursuant to Section 106 of NHPA.

Additionally, as part of the review process set forth by the CWA and its implementing regulations, EPA sought input from other applicable agencies and reviewed Florida's proposal for consistency with the CWA. EPA determined that Florida's program is consistent with and no less stringent than the requirements of the CWA and its implementing regulations. Part of the review process included the development of a comprehensive Biological Evaluation that ensures protection of more than 200 endangered species throughout Florida, and completed consultation under the Endangered Species act, which is the first and only time the Agency has ever completed such consultation under Section 404(g) of the CWA. The EPA also developed a Programmatic Agreement with multiple parties which enabled the Agency to complete NHPA consultation for the first time ever under Section 404(g) of the CWA.

Background

Section 404 of the CWA requires a permit before dredged or fill material may be discharged into waters of the United States. Section 404(g) of the CWA gives states and tribes the option of assuming, or taking over, the permitting responsibility and administration of the Section 404 permit program for certain waters. Section 404 permits for those assumed waters would be issued by the state or tribe instead of the U.S. Army Corps of Engineers. The CWA provides that the Corps retains permitting authority in certain tidal waters and other specified waters currently related to the transport of interstate or foreign commerce.

More information: [[HYPERLINK "https://www.epa.gov/cwa404g/basic-information-about-assumption-under-cwa-section-404"](https://www.epa.gov/cwa404g/basic-information-about-assumption-under-cwa-section-404)]